

FILED MAR 11 1999

By Najera

H. B. No. 3234

A BILL TO BE ENTITLED

AN ACT

relating to the provision of utility service in economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.012, Local Government Code, is amended by amending Subsections (c) and (e) to read as follows:

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; or

(4) the municipal authority responsible for approving plats issues a certificate stating that:

(A) the land, before September 1, 1995, was sold or conveyed to the person requesting service by any means of

1 conveyance, including a contract for deed or executory contract;

2 (B) the land is located in a subdivision in
3 which the entity has previously provided service;

4 (C) the land is located outside the limits of
5 the municipality; and

6 (D) the land is located in an "affected county"
7 as that term is defined by Section 232.021[~~7--and~~

8 [~~{E}--construction-of-a-residence--on--the--land7~~
9 ~~evidenced--by-at-least-the-existence-of-a-completed-foundation7-was~~
10 ~~begun-on-or-before-May-17-1997]~~.

11 (e) A person requesting service may obtain a certificate
12 under Subsection (c)(4) only if the person provides to the
13 municipal authority responsible for approving plats either:

14 (1) a copy of the means of conveyance or other
15 documents that show that the land was sold or conveyed to the
16 person requesting service before September 1, 1995[~~7--and---a~~
17 ~~notarized-affidavit-by-that-person-that-states-that-construction-of~~
18 ~~a--residence--on--the--land7-evidenced-by-at-least-the-existence-of-a~~
19 ~~completed-foundation7-was-begun-on-or-before-May-17-19977]~~ or

20 (2) a notarized affidavit by the person requesting
21 service that states that the property was sold or conveyed to that
22 person before September 1, 1995[~~7--and--that--construction--of--a~~
23 ~~residence--on--the--land7--evidenced-by-at-least-the-existence-of-a~~
24 ~~completed-foundation7-was-begun-on-or-before-May-17-1997]~~.

25 SECTION 2. Sec. 232.029, Local Government Code, is amended
26 by amending Subsections (c) and (e) to read as follows:

27 (c) An electric, gas, water, or sewer service utility may

1 serve or connect subdivided land with water, sewer, electricity,
2 gas, or other utility service regardless of whether the utility
3 receives a certificate issued by the commissioners court under
4 Section 232.028(a) or receives a determination from the
5 commissioners court under Section 232.028(b) if the utility is
6 provided with a certificate issued by the commissioners court that
7 states that:

8 (1) before July 1, 1995, the subdivided land was sold
9 or conveyed to the person requesting service by any means of
10 conveyance, including a contract for deed or executory contract;

11 (2) the land is located in a subdivision in which the
12 utility has previously provided service[~~7-and-(3)-construction-of-a~~
13 ~~residence--on--the--land,--evidenced-by-at-least-the-existence-of-a~~
14 ~~completed-foundation,--was-begun-on-or-before-May-17-1997~~].

15 (e) A person requesting service may obtain a certificate
16 under Subsection (c) only if the person provides to the
17 commissioners court either:

18 (1) a copy of the means of conveyance or other
19 documents that show that the land was sold or conveyed to the
20 person requesting service before July 1, 1995[~~7-and-a-notarized~~
21 ~~affidavit-by--that--person--that--states--that--construction--of--a~~
22 ~~residence--on--the--land,--evidenced-by-at-least-the-existence-of-a~~
23 ~~completed-foundation,--was-begun-on-or-before-May-17-1997~~]; or

24 (2) a notarized affidavit by the person requesting
25 service that states that the property was sold or conveyed to that
26 person before July 1, 1995[~~7-and-that-construction-of--a--residence~~
27 ~~on--the--land,--evidenced--by-at-least-the-existence-of-a-completed~~

1 ~~foundation, was begun on or before May 17, 1997]~~.

2 SECTION 3. This Act takes effect on September 1, 1999.

3 SECTION 4. The importance of this legislation and the
4 crowded condition of the calendars in both houses create an
5 emergency and an imperative public necessity that the
6 constitutional rule requiring bills to be read on three several
7 days in each house be suspended, and this rule is hereby suspended.

ADOPTED

APR 27 1999

Sharon Carter
Chief Clerk
House of Representatives

all
AR
MAJ

By Najera

H.B. No. 3234

Substitute the following for H.B. No. 3234:

By Walker

C.S.H.B. No. 3234

A BILL TO BE ENTITLED

AN ACT

relating to the connection of utilities in certain subdivisions in economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.012, Local Government Code, is amended by amending Subsections (c) and (d), adding a new Subsection (f), and relettering existing Subsections (f), (g), and (h) as Subsections (g), (h), and (i) to read as follows:

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; [or]

(4) the municipal authority responsible for approving plats issues a certificate stating that:

1 (A) the land, before September 1, 1995, was sold
2 or conveyed to the person requesting service by any means of
3 conveyance, including a contract for deed or executory contract;

4 (B) the land is located in a subdivision in
5 which the entity has previously provided service;

6 (C) the land is located outside the limits of
7 the municipality;

8 (D) the land is located in an "affected county"
9 as that term is defined by Section 232.021; and

10 (E) construction of a residence on the land,
11 evidenced by at least the existence of a completed foundation, was
12 begun on or before May 1, 1997; or

13 (5) the municipal authority responsible for approving
14 plats issues a certificate stating that the land was not subdivided
15 after September 1, 1995, and:

16 (A) water service is available within 500 feet
17 of the land; or

18 (B) the water provider has determined that the
19 extension of water service to the land is feasible.

20 (d) An entity described by Subsection (b) may provide
21 utility service to land described by Subsection (c)(4) or (c)(5)
22 only if the person requesting service:

23 (1) is not the land's subdivider or the subdivider's
24 agent; and

25 (2) provides to the entity a certificate described by
26 Subsection (c)(4) or (c)(5).

27 (f) A person requesting service may obtain a certificate

1 under Subsection (c)(5) only if the person provides to the
2 municipal authority responsible for approving plats an affidavit by
3 the person that the property was not sold or conveyed to that
4 person from a subdivider or subdivider's agent after September 1,
5 1995.

6 (g) [~~tf~~] On request, the municipal authority responsible
7 for approving plats shall provide to the attorney general and any
8 appropriate local, county, or state law enforcement official a copy
9 of any document on which the municipal authority relied in
10 determining the legality of providing service.

11 (h) [~~tg~~] This section may not be construed to abrogate any
12 civil or criminal proceeding or prosecution or to waive any penalty
13 against a subdivider for a violation of a state or local law,
14 regardless of the date on which the violation occurred.

15 (i) [~~th~~] In this section:

16 (1) "Foundation" means the lowest division of a
17 residence, usually consisting of a masonry slab or a pier and beam
18 structure, that is partly or wholly below the surface of the ground
19 and on which the residential structure rests.

20 (2) "Subdivider" has the meaning assigned by Section
21 232.021.

22 SECTION 2. Section 232.029, Local Government Code, is
23 amended by amending Subsections (c), (d), and (e), adding a new
24 Subsection (f), and relettering existing Subsections (f)-(i) as
25 Subsections (g)-(j) to read as follows:

26 (c) An electric, gas, water, or sewer service utility may
27 serve or connect subdivided land with water, sewer, electricity,

1 gas, or other utility service regardless of whether the utility
2 receives a certificate issued by the commissioners court under
3 Section 232.028(a) or receives a determination from the
4 commissioners court under Section 232.028(b) if the utility is
5 provided with a certificate issued by the commissioners court that
6 states that:

7 (1) [~~before-July-17-1995~~] the subdivided land:

8 (A) was sold or conveyed before September 1,
9 1995, to the person requesting service by any means of conveyance,
10 including a contract for deed or executory contract;

11 (B) [~~+2~~---the-land] is located in a subdivision
12 in which the utility has previously provided service; and

13 (C) was improved with the [~~+3~~] construction of
14 a residence on the land, evidenced by at least the existence of a
15 completed foundation, that was begun on or before May 1, 1997; or

16 (2) the land was not subdivided after September 1,
17 1995, and:

18 (A) water service is available within 500 feet
19 of the land; or

20 (B) the water provider has determined that the
21 extension of water service to the land is feasible.

22 (d) A utility may provide utility service to subdivided land
23 described by Subsection (c) only if the person requesting service:

24 (1) is not the land's subdivider or the subdivider's
25 agent; and

26 (2) provides to the utility a certificate described by
27 Subsection (c)(1) or (c)(2) [~~+e~~].

1 ✓
2 (e) A person requesting service may obtain a certificate
3 under Subsection (c)(1) [~~(e)~~] only if the person provides to the
4 commissioners court either:

5 ✓
6 (1) a copy of the means of conveyance or other
7 documents that show that the land was sold or conveyed to the
8 person requesting service before September 1, 1995 [~~July-17-1995~~],
9 and a notarized affidavit by that person that states that
10 construction of a residence on the land, evidenced by at least the
11 existence of a completed foundation, was begun on or before May 1,
12 1997; or

13 ✓
14 (2) a notarized affidavit by the person requesting
15 service that states that the property was sold or conveyed to that
16 person before September 1, 1995 [~~July--17--1995~~], and that
17 construction of a residence on the land, evidenced by at least the
18 existence of a completed foundation, was begun on or before May 1,
19 1997.

20 ✓
21 (f) A person requesting service may obtain a certificate
22 under Subsection (c)(2) only if the person provides to the
23 commissioners court an affidavit by the person that the property
24 was not sold or conveyed to that person from a subdivider or
25 subdivider's agent after September 1, 1995.

26 ✓
27 (g) [~~(f)~~] On request, the commissioners court shall provide
28 to the attorney general and any appropriate local, county, or state
29 law enforcement official a copy of any document on which the
30 commissioners court relied in determining the legality of providing
31 service.

32 ✓
33 (h) [~~(g)~~] This section may not be construed to abrogate any

1 civil or criminal proceeding or prosecution or to waive any penalty
2 against a subdivider for a violation of a state or local law,
3 regardless of the date on which the violation occurred.

4 (i) [(h)] The prohibition established by this section shall
5 not prohibit an electric or gas utility from providing electric or
6 gas utility connection or service to a lot being sold, conveyed, or
7 purchased through a contract for deed or executory contract or
8 other device by a subdivider prior to September 1, 1995 [~~July--17~~
9 ~~1995~~], which is located within a subdivision where the utility has
10 previously established service and was subdivided by a plat
11 approved prior to September 1, 1989.

12 (j) [(i)] In this section, "foundation" means the lowest
13 division of a residence, usually consisting of a masonry slab or a
14 pier and beam structure, that is partly or wholly below the surface
15 of the ground and on which the residential structure rests.

16 SECTION 3. The importance of this legislation and the
17 crowded condition of the calendars in both houses create an
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended,
21 and that this Act take effect and be in force from and after its
22 passage, and it is so enacted.

HOUSE COMMITTEE REPORT

1st Printing

By Najera, Wise

H.B. No. 3234

Substitute the following for H.B. No. 3234:

By Walker

C.S.H.B. No. 3234

A BILL TO BE ENTITLED

AN ACT

relating to the connection of utilities in certain subdivisions in economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.012, Local Government Code, is amended by amending Subsections (c) and (d), adding a new Subsection (f), and relettering existing Subsections (f), (g), and (h) as Subsections (g), (h), and (i) to read as follows:

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; [or]

(4) the municipal authority responsible for approving plats issues a certificate stating that:

1 (A) the land, before September 1, 1995, was sold
2 or conveyed to the person requesting service by any means of
3 conveyance, including a contract for deed or executory contract;

4 (B) the land is located in a subdivision in
5 which the entity has previously provided service;

6 (C) the land is located outside the limits of
7 the municipality;

8 (D) the land is located in an "affected county"
9 as that term is defined by Section 232.021; and

10 (E) construction of a residence on the land,
11 evidenced by at least the existence of a completed foundation, was
12 begun on or before May 1, 1997; or

13 (5) the municipal authority responsible for approving
14 plats issues a certificate stating that the land was not subdivided
15 after September 1, 1995, and:

16 (A) water service is available within 500 feet
17 of the land; or

18 (B) the water provider has determined that the
19 extension of water service to the land is feasible.

20 (d) An entity described by Subsection (b) may provide
21 utility service to land described by Subsection (c)(4) or (c)(5)
22 only if the person requesting service:

23 (1) is not the land's subdivider or the subdivider's
24 agent; and

25 (2) provides to the entity a certificate described by
26 Subsection (c)(4) or (c)(5).

27 (f) A person requesting service may obtain a certificate

1 under Subsection (c)(5) only if the person provides to the
2 municipal authority responsible for approving plats an affidavit by
3 the person that the property was not sold or conveyed to that
4 person from a subdivider or subdivider's agent after September 1,
5 1995.

6 (g) [~~f~~] On request, the municipal authority responsible
7 for approving plats shall provide to the attorney general and any
8 appropriate local, county, or state law enforcement official a copy
9 of any document on which the municipal authority relied in
10 determining the legality of providing service.

11 (h) [~~g~~] This section may not be construed to abrogate any
12 civil or criminal proceeding or prosecution or to waive any penalty
13 against a subdivider for a violation of a state or local law,
14 regardless of the date on which the violation occurred.

15 (i) [~~h~~] In this section:

16 (1) "Foundation" means the lowest division of a
17 residence, usually consisting of a masonry slab or a pier and beam
18 structure, that is partly or wholly below the surface of the ground
19 and on which the residential structure rests.

20 (2) "Subdivider" has the meaning assigned by Section
21 232.021.

22 SECTION 2. Section 232.029, Local Government Code, is
23 amended by amending Subsections (c), (d), and (e), adding a new
24 Subsection (f), and relettering existing Subsections (f)-(i) as
25 Subsections (g)-(j) to read as follows:

26 (c) An electric, gas, water, or sewer service utility may
27 serve or connect subdivided land with water, sewer, electricity,

gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) [~~before-July-17-1995~~] the subdivided land:

(A) was sold or conveyed before September 1, 1995, to the person requesting service by any means of conveyance, including a contract for deed or executory contract;

(B) [~~+2~~---the-land] is located in a subdivision in which the utility has previously provided service; and

(C) was improved with the [~~+3~~] construction of a residence on the land, evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 1997; or

(2) the land was not subdivided after September 1, 1995, and:

(A) water service is available within 500 feet of the land; or

(B) the water provider has determined that the extension of water service to the land is feasible.

(d) A utility may provide utility service to subdivided land described by Subsection (c) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (c)(1) or (c)(2) [~~+e~~].

1 (e) A person requesting service may obtain a certificate
2 under Subsection (c)(1) [~~(e)~~] only if the person provides to the
3 commissioners court either:

4 (1) a copy of the means of conveyance or other
5 documents that show that the land was sold or conveyed to the
6 person requesting service before September 1, 1995 [~~July-17-1995~~],
7 and a notarized affidavit by that person that states that
8 construction of a residence on the land, evidenced by at least the
9 existence of a completed foundation, was begun on or before May 1,
10 1997; or

11 (2) a notarized affidavit by the person requesting
12 service that states that the property was sold or conveyed to that
13 person before September 1, 1995 [~~July--17--1995~~], and that
14 construction of a residence on the land, evidenced by at least the
15 existence of a completed foundation, was begun on or before May 1,
16 1997.

17 (f) A person requesting service may obtain a certificate
18 under Subsection (c)(2) only if the person provides to the
19 commissioners court an affidavit by the person that the property
20 was not sold or conveyed to that person from a subdivider or
21 subdivider's agent after September 1, 1995.

22 (g) [~~(f)~~] On request, the commissioners court shall provide
23 to the attorney general and any appropriate local, county, or state
24 law enforcement official a copy of any document on which the
25 commissioners court relied in determining the legality of providing
26 service.

27 (h) [~~(g)~~] This section may not be construed to abrogate any

1 civil or criminal proceeding or prosecution or to waive any penalty
2 against a subdivider for a violation of a state or local law,
3 regardless of the date on which the violation occurred.

4 (i) [~~h~~] The prohibition established by this section shall
5 not prohibit an electric or gas utility from providing electric or
6 gas utility connection or service to a lot being sold, conveyed, or
7 purchased through a contract for deed or executory contract or
8 other device by a subdivider prior to September 1, 1995 [~~July--17~~
9 ~~1995~~], which is located within a subdivision where the utility has
10 previously established service and was subdivided by a plat
11 approved prior to September 1, 1989.

12 (j) [~~i~~] In this section, "foundation" means the lowest
13 division of a residence, usually consisting of a masonry slab or a
14 pier and beam structure, that is partly or wholly below the surface
15 of the ground and on which the residential structure rests.

16 SECTION 3. The importance of this legislation and the
17 crowded condition of the calendars in both houses create an
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended,
21 and that this Act take effect and be in force from and after its
22 passage, and it is so enacted.

COMMITTEE REPORT

The Honorable James E. "Pete" Laney
Speaker of the House of Representatives

4/12/99
(date)

Sir:

We, your COMMITTEE ON LAND AND RESOURCE MANAGEMENT

to whom was referred HB 3234 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (X) yes () no A fiscal note was requested.
- () yes (X) no A criminal justice policy impact statement was requested.
- () yes (X) no An equalized educational funding impact statement was requested.
- () yes (X) no An actuarial analysis was requested.
- () yes (X) no A water development policy impact statement was requested.
- () yes (X) no A tax equity note was requested.
- () The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Walker, Chair	X			
Crabb, Vice-chair	X			
Bosse	X			
Brown, F.	X			
Hardcastle	X			
Howard	X			
Krusee				X
Mowery				X
Turner, B.	X			

Total 7 aye
 0 nay
 0 present, not voting
 2 absent

Gary H. Walber
CHAIR

BILL ANALYSIS

Office of House Bill Analysis

C.S.H.B. 3234

By: Najera

Land & Resource Management

4/14/1999

Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law designed to stop the proliferation of colonias has unintentionally prevented some current residents from connecting to available utility service. As a result, there may be situations in which one residence has utility service, but because of a later construction date, a neighboring residence may not be eligible for the same services. The purpose of the bill is to enable owners of land who have not yet started construction on a residence to receive utility services if certain requirements are met, while maintaining the prohibition against the development of new colonias.

C.S.H.B. 3234 allows certain entities to serve or connect land with water, sewer, electricity, gas, or other utility regardless of whether the entity has certification regarding compliance with plat requirements if it obtains specified certification that the land was not subdivided after September 1, 1995, and water service is feasible. Under this bill, a person requesting service may obtain such certification by providing to the proper municipal authority an affidavit stating that the property was not sold or conveyed to that person from a subdivider or subdivider's agent after September 1, 1995.

This bill also allows an electric, gas, water, or sewer utility to serve or connect subdivided land regardless of whether the utility receives a certificate issued by the commissioners court if: the utility receives a certificate issued by the commissioners court stating that the subdivided land was sold or conveyed before September 1, 1995, to the person requesting service; is in a subdivision where the utility has previously provided service; and was improved with the construction of a residence that begun on or before May 1, 1997, or stating that the land was not subdivided after September 1, 1995, and that water service to the land is feasible.

RULEMAKING AUTHORITY

It is the opinion of the Office of House Bill Analysis that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 212.012, Local Government Code, to authorize an entity described under Subsection (b) to serve or connect land with water, sewer, electricity, gas, or other utility regardless of whether the entity holds an applicable certificate under Section 212.0115 (Certification Regarding Compliance With Plat Requirements) if the municipal authority responsible for approving plats issues a certificate stating that the land was not subdivided after September 1, 1995, and water service is available within 500 feet of the land or the water provider has determined that water service to the land is feasible. Authorizes a person requesting service to obtain a certificate only if the person provides to the municipal authority an affidavit by the person that the property was not sold or conveyed to that person from a subdivider or subdivider's agent after September 1, 1995. Redesignates existing Subsections (f)-(h) to Subsections (g)-(i). Makes conforming and nonsubstantive changes.

SECTION 2. Amends Sections 232.029(c)-(j), Local Government Code, as follows:

(c) Authorizes an electric, gas, water, or sewer service utility to serve or connect subdivided land regardless of whether the utility receives a certificate issued by, or receives a

determination from the commissioners court if the utility is provided with a certificate issued by the commissioners court stating that the subdivided land, was sold or conveyed before September 1, 1995, rather than before July 1, 1995 to the person requesting service; is located in a subdivision in which the utility has previously provided service; and was improved with the construction of a residence, evidenced by at least the existence of a completed foundation that was begun on or before May 1, 1997, or the land was not subdivided after September 1, 1995, and water service is available within 500 feet of the land or the water provider has determined that the extension of water service to the land is feasible. Creates Subparagraph (B) and (C) from existing Subdivisions (2) and (3), respectively.

(d) Makes conforming changes.

(e) Makes conforming changes.

(f) Authorizes a person requesting service to obtain a certificate under Subsection (c)(2) if the person provides to the commissioners court an affidavit by the person that the property was not sold or conveyed to that person from a subdivider after September 1, 1995.

(g) Redesignated from existing Subsection (f).

(h) Redesignated from existing Subsection (g).

(i) Redesignated from existing Subsection (h).

(j) Redesignated from existing Subsection (i).

SECTION 3. Emergency clause.

Effective date: upon passage.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original in SECTION 1 (Section 212.012, Local Government Code) by eliminating the proposed deletion of Paragraph (c)(4)(E), relating to the requirement of a municipal authority to issue a certificate stating that the completed foundation of a residence existed prior to May 1, 1997, in order for a utility to provide the land with utility service regardless of whether the entity holds an applicable certificate regarding compliance with plat requirement. The substitute adds Subdivision (5) to allow an entity described under Subsection (b) to serve or connect land with water, sewer, electricity, gas, or other utility regardless of whether the entity holds an applicable certification regarding compliance with plat retirements, if a certificate is issued stating that the land was not subdivided after September 1, 1995, and water service is available within 500 feet of the land or the water provider has determined that water service to the land is feasible. The substitute modifies the original in SECTION 1 (Section 212.012, Local Government Code) by eliminating the proposed deletion of text in Subsection (e), relating to the requirement that a person provide to the appropriate municipal authority a notarized affidavit stating that the completed foundation of a residence existed prior to May 1, 1997, in order for the person to obtain a certificate under Subsection (c)(4). The substitute modifies the original by adding new Subsection (f) to allow a person requesting service to obtain a certificate under Subsection (c)(2) upon providing the commissioners court an affidavit stating that the property was not sold or conveyed to that person from a subdivider after September 1, 1995. Redesignates Subsections (f)-(h) of the original to Subsections (g)-(i).

The substitute modifies the original in SECTION 2 (Section 232.029, Local Government Code) in Subsection (c) by authorizing an electric, gas, water, or sewer service utility to serve or connect subdivided land regardless of whether the utility receives a certificate issued by, or receives a determination from, the commissioners court, if the utility is provided with a certificate issued by the commissioners court stating the subdivided land was sold or conveyed before September 1, 1995, to the person requesting service; is in a subdivision that has previously received service from the utility; and was improved with the construction of a residence having a completed foundation on or before May 1, 1997, or, if the land was not subdivided after September 1, 1995, and the water service is

within 500 feet of the land or the water provider has determined that the extension of water service or conveyed before July 1, 1995. The substitute creates Subparagraphs (A)-(C) from existing

The substitute modifies the original in SECTION 2 (Section 232.029, Local Government Code) by Subsection (f) to authorize a person requesting service to obtain a certificate under Subsection (c)(2) was not sold or conveyed to that person from a subdivider after September 1, 1995.

The substitute modifies redesignating Subsections (f)-(i) of the original to Subsections (g)-(j) of the substitute, and by making

The substitute modifies the original in SECTION 3 by combining the effective date and short clause set out in SECTION 3 and 4, respectively, of the original bill, into a long emergency clause in SECTION 3 of the substitute.

SUMMARY OF COMMITTEE ACTION

HB 3234

March 29, 1999 8:00AM
Considered in public hearing
Testimony taken in committee
Left pending in committee

April 12, 1999 8:00AM
Considered in public hearing
Committee substitute considered in committee
Testimony taken in committee
Reported favorably as substituted

WITNESS LIST

HB 3234
HOUSE COMMITTEE REPORT
Land & Resource Management Committee

March 29, 1999 - 8:00AM

For: Henneberger, John (Texas Low Income Housing Information
Service and Border Low Income Housing Coalition)
Johnson, Amy (Border Water Works)

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

April 13, 1999

TO: Honorable Gary Walker, Chair, House Committee on Land & Resource Management

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB 3234** by Najera (relating to the connection of utilities in certain subdivisions in economically distressed areas), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.
--

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board

LBB Staff: JK, DE, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

March 23, 1999

TO: Honorable Gary Walker, Chair, House Committee on Land & Resource Management

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB3234** by Najera (Relating to the provision of utility service in economically distressed areas.), **As Introduced**

No significant fiscal implication to the State is anticipated.
--

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JK, DE, TL

12
ENGROSSED
SECOND READING

By Najera

H.B. No. 3234

A BILL TO BE ENTITLED

AN ACT

relating to the connection of utilities in certain subdivisions in economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.012, Local Government Code, is amended by amending Subsections (c) and (d), adding a new Subsection (f), and relettering existing Subsections (f), (g), and (h) as Subsections (g), (h), and (i) to read as follows:

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; [or]

(4) the municipal authority responsible for approving plats issues a certificate stating that:

1 (A) the land, before September 1, 1995, was sold
2 or conveyed to the person requesting service by any means of
3 conveyance, including a contract for deed or executory contract;

4 (B) the land is located in a subdivision in
5 which the entity has previously provided service;

6 (C) the land is located outside the limits of
7 the municipality;

8 (D) the land is located in an "affected county"
9 as that term is defined by Section 232.021; and

10 (E) construction of a residence on the land,
11 evidenced by at least the existence of a completed foundation, was
12 begun on or before May 1, 1997; or

13 (5) the municipal authority responsible for approving
14 plats issues a certificate stating that the land was not subdivided
15 after September 1, 1995, and:

16 (A) water service is available within 500 feet
17 of the land; or

18 (B) the water provider has determined that the
19 extension of water service to the land is feasible.

20 (d) An entity described by Subsection (b) may provide
21 utility service to land described by Subsection (c)(4) or (c)(5)
22 only if the person requesting service:

23 (1) is not the land's subdivider or the subdivider's
24 agent; and

25 (2) provides to the entity a certificate described by
26 Subsection (c)(4) or (c)(5).

27 (f) A person requesting service may obtain a certificate

1 under Subsection (c)(5) only if the person provides to the
2 municipal authority responsible for approving plats an affidavit by
3 the person that the property was not sold or conveyed to that
4 person from a subdivider or subdivider's agent after September 1,
5 1995.

6 (g) [~~f~~] On request, the municipal authority responsible
7 for approving plats shall provide to the attorney general and any
8 appropriate local, county, or state law enforcement official a copy
9 of any document on which the municipal authority relied in
10 determining the legality of providing service.

11 (h) [~~g~~] This section may not be construed to abrogate any
12 civil or criminal proceeding or prosecution or to waive any penalty
13 against a subdivider for a violation of a state or local law,
14 regardless of the date on which the violation occurred.

15 (i) [~~h~~] In this section:

16 (1) "Foundation" means the lowest division of a
17 residence, usually consisting of a masonry slab or a pier and beam
18 structure, that is partly or wholly below the surface of the ground
19 and on which the residential structure rests.

20 (2) "Subdivider" has the meaning assigned by Section
21 232.021.

22 SECTION 2. Section 232.029, Local Government Code, is
23 amended by amending Subsections (c), (d), and (e), adding a new
24 Subsection (f), and relettering existing Subsections (f)-(i) as
25 Subsections (g)-(j) to read as follows:

26 (c) An electric, gas, water, or sewer service utility may
27 serve or connect subdivided land with water, sewer, electricity,

1 gas, or other utility service regardless of whether the utility
2 receives a certificate issued by the commissioners court under
3 Section 232.028(a) or receives a determination from the
4 commissioners court under Section 232.028(b) if the utility is
5 provided with a certificate issued by the commissioners court that
6 states that:

7 (1) [~~before-July-17-1995~~] the subdivided land:

8 (A) was sold or conveyed before September 1,
9 1995, to the person requesting service by any means of conveyance,
10 including a contract for deed or executory contract;

11 (B) [~~+2~~---the-land] is located in a subdivision
12 in which the utility has previously provided service; and

13 (C) was improved with the [~~+3~~] construction of
14 a residence on the land, evidenced by at least the existence of a
15 completed foundation, that was begun on or before May 1, 1997; or

16 (2) the land was not subdivided after September 1,
17 1995, and:

18 (A) water service is available within 500 feet
19 of the land; or

20 (B) the water provider has determined that the
21 extension of water service to the land is feasible.

22 (d) A utility may provide utility service to subdivided land
23 described by Subsection (c) only if the person requesting service:

24 (1) is not the land's subdivider or the subdivider's
25 agent; and

26 (2) provides to the utility a certificate described by
27 Subsection (c)(1) or (c)(2) [~~+e~~].

1 (e) A person requesting service may obtain a certificate
2 under Subsection (c)(1) [~~(e)~~] only if the person provides to the
3 commissioners court either:

4 (1) a copy of the means of conveyance or other
5 documents that show that the land was sold or conveyed to the
6 person requesting service before September 1, 1995 [~~July-17-1995~~],
7 and a notarized affidavit by that person that states that
8 construction of a residence on the land, evidenced by at least the
9 existence of a completed foundation, was begun on or before May 1,
10 1997; or

11 (2) a notarized affidavit by the person requesting
12 service that states that the property was sold or conveyed to that
13 person before September 1, 1995 [~~July--17--1995~~], and that
14 construction of a residence on the land, evidenced by at least the
15 existence of a completed foundation, was begun on or before May 1,
16 1997.

17 (f) A person requesting service may obtain a certificate
18 under Subsection (c)(2) only if the person provides to the
19 commissioners court an affidavit by the person that the property
20 was not sold or conveyed to that person from a subdivider or
21 subdivider's agent after September 1, 1995.

22 (g) [~~(f)~~] On request, the commissioners court shall provide
23 to the attorney general and any appropriate local, county, or state
24 law enforcement official a copy of any document on which the
25 commissioners court relied in determining the legality of providing
26 service.

27 (h) [~~(g)~~] This section may not be construed to abrogate any

1 civil or criminal proceeding or prosecution or to waive any penalty
2 against a subdivider for a violation of a state or local law,
3 regardless of the date on which the violation occurred.

4 (i) [(h)] The prohibition established by this section shall
5 not prohibit an electric or gas utility from providing electric or
6 gas utility connection or service to a lot being sold, conveyed, or
7 purchased through a contract for deed or executory contract or
8 other device by a subdivider prior to September 1, 1995 [~~July--17~~
9 ~~1995~~], which is located within a subdivision where the utility has
10 previously established service and was subdivided by a plat
11 approved prior to September 1, 1989.

12 (j) [(i)] In this section, "foundation" means the lowest
13 division of a residence, usually consisting of a masonry slab or a
14 pier and beam structure, that is partly or wholly below the surface
15 of the ground and on which the residential structure rests.

16 SECTION 3. The importance of this legislation and the
17 crowded condition of the calendars in both houses create an
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended,
21 and that this Act take effect and be in force from and after its
22 passage, and it is so enacted.

HOUSE ENGROSSMENT

By Najera, Wise

H.B. No. 3234

A BILL TO BE ENTITLED

AN ACT

relating to the connection of utilities in certain subdivisions in economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.012, Local Government Code, is amended by amending Subsections (c) and (d), adding a new Subsection (f), and relettering existing Subsections (f), (g), and (h) as Subsections (g), (h), and (i) to read as follows:

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; [or]

(4) the municipal authority responsible for approving plats issues a certificate stating that:

1 (A) the land, before September 1, 1995, was sold
2 or conveyed to the person requesting service by any means of
3 conveyance, including a contract for deed or executory contract;

4 (B) the land is located in a subdivision in
5 which the entity has previously provided service;

6 (C) the land is located outside the limits of
7 the municipality;

8 (D) the land is located in an "affected county"
9 as that term is defined by Section 232.021; and

10 (E) construction of a residence on the land,
11 evidenced by at least the existence of a completed foundation, was
12 begun on or before May 1, 1997; or

13 (5) the municipal authority responsible for approving
14 plats issues a certificate stating that the land was not subdivided
15 after September 1, 1995, and:

16 (A) water service is available within 500 feet
17 of the land; or

18 (B) the water provider has determined that the
19 extension of water service to the land is feasible.

20 (d) An entity described by Subsection (b) may provide
21 utility service to land described by Subsection (c)(4) or (c)(5)
22 only if the person requesting service:

23 (1) is not the land's subdivider or the subdivider's
24 agent; and

25 (2) provides to the entity a certificate described by
26 Subsection (c)(4) or (c)(5).

27 (f) A person requesting service may obtain a certificate

1 under Subsection (c)(5) only if the person provides to the
2 municipal authority responsible for approving plats an affidavit by
3 the person that the property was not sold or conveyed to that
4 person from a subdivider or subdivider's agent after September 1,
5 1995.

6 (g) [(f)] On request, the municipal authority responsible
7 for approving plats shall provide to the attorney general and any
8 appropriate local, county, or state law enforcement official a copy
9 of any document on which the municipal authority relied in
10 determining the legality of providing service.

11 (h) [(g)] This section may not be construed to abrogate any
12 civil or criminal proceeding or prosecution or to waive any penalty
13 against a subdivider for a violation of a state or local law,
14 regardless of the date on which the violation occurred.

15 (i) [(h)] In this section:

16 (1) "Foundation" means the lowest division of a
17 residence, usually consisting of a masonry slab or a pier and beam
18 structure, that is partly or wholly below the surface of the ground
19 and on which the residential structure rests.

20 (2) "Subdivider" has the meaning assigned by Section
21 232.021.

22 SECTION 2. Section 232.029, Local Government Code, is
23 amended by amending Subsections (c), (d), and (e), adding a new
24 Subsection (f), and relettering existing Subsections (f)-(i) as
25 Subsections (g)-(j) to read as follows:

26 (c) An electric, gas, water, or sewer service utility may
27 serve or connect subdivided land with water, sewer, electricity,

gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) [~~before-July-17-1995~~] the subdivided land:

(A) was sold or conveyed before September 1, 1995, to the person requesting service by any means of conveyance, including a contract for deed or executory contract;

(B) [~~+2~~--the-land] is located in a subdivision in which the utility has previously provided service; and

(C) was improved with the [~~+3~~] construction of a residence on the land, evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 1997; or

(2) the land was not subdivided after September 1, 1995, and:

(A) water service is available within 500 feet of the land; or

(B) the water provider has determined that the extension of water service to the land is feasible.

(d) A utility may provide utility service to subdivided land described by Subsection (c) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (c)(1) or (c)(2) [~~+c~~].

1 (e) A person requesting service may obtain a certificate
2 under Subsection (c)(1) [~~te~~] only if the person provides to the
3 commissioners court either:

4 (1) a copy of the means of conveyance or other
5 documents that show that the land was sold or conveyed to the
6 person requesting service before September 1, 1995 [~~July-17-1995~~],
7 and a notarized affidavit by that person that states that
8 construction of a residence on the land, evidenced by at least the
9 existence of a completed foundation, was begun on or before May 1,
10 1997; or

11 (2) a notarized affidavit by the person requesting
12 service that states that the property was sold or conveyed to that
13 person before September 1, 1995 [~~July--17--1995~~], and that
14 construction of a residence on the land, evidenced by at least the
15 existence of a completed foundation, was begun on or before May 1,
16 1997.

17 (f) A person requesting service may obtain a certificate
18 under Subsection (c)(2) only if the person provides to the
19 commissioners court an affidavit by the person that the property
20 was not sold or conveyed to that person from a subdivider or
21 subdivider's agent after September 1, 1995.

22 (g) [~~tf~~] On request, the commissioners court shall provide
23 to the attorney general and any appropriate local, county, or state
24 law enforcement official a copy of any document on which the
25 commissioners court relied in determining the legality of providing
26 service.

27 (h) [~~tg~~] This section may not be construed to abrogate any

1 civil or criminal proceeding or prosecution or to waive any penalty
2 against a subdivider for a violation of a state or local law,
3 regardless of the date on which the violation occurred.

4 (i) [~~h~~] The prohibition established by this section shall
5 not prohibit an electric or gas utility from providing electric or
6 gas utility connection or service to a lot being sold, conveyed, or
7 purchased through a contract for deed or executory contract or
8 other device by a subdivider prior to September 1, 1995 [~~July--17~~
9 ~~1995~~], which is located within a subdivision where the utility has
10 previously established service and was subdivided by a plat
11 approved prior to September 1, 1989.

12 (j) [~~i~~] In this section, "foundation" means the lowest
13 division of a residence, usually consisting of a masonry slab or a
14 pier and beam structure, that is partly or wholly below the surface
15 of the ground and on which the residential structure rests.

16 SECTION 3. The importance of this legislation and the
17 crowded condition of the calendars in both houses create an
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended,
21 and that this Act take effect and be in force from and after its
22 passage, and it is so enacted.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

April 13, 1999

TO: Honorable Gary Walker, Chair, House Committee on Land & Resource Management

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB 3234** by Najera (relating to the connection of utilities in certain subdivisions in economically distressed areas), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board

LBB Staff: JK, DE, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

March 23, 1999

TO: Honorable Gary Walker, Chair, House Committee on Land & Resource Management

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB3234 by Najera (Relating to the provision of utility service in economically distressed areas.), **As Introduced**

No significant fiscal implication to the State is anticipated.
--

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JK, DE, TL

1-1 By: Najera, Wise (Senate Sponsor - Zaffirini) H.B. No. 3234
1-2 (In the Senate - Received from the House April 29, 1999;
1-3 April 30, 1999, read first time and referred to Special Committee
1-4 on Border Affairs; May 7, 1999, reported favorably, as amended, by
1-5 the following vote: Yeas 5, Nays 0; May 7, 1999, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Zaffirini

1-7 Amend H.B. 3234 (engrossed version), as follows:

1-8 (1) In SECTION 1 (page 1, line 52), strike "500" and substitute
1-9 "750".
1-10 (2) In SECTION 2 (page 2, line 45), strike "500" and substitute
1-11 "750".

1-12 A BILL TO BE ENTITLED
1-13 AN ACT

1-14 relating to the connection of utilities in certain subdivisions in
1-15 economically distressed areas.

1-16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-17 SECTION 1. Section 212.012, Local Government Code, is
1-18 amended by amending Subsections (c) and (d), adding a new
1-19 Subsection (f), and relettering existing Subsections (f), (g), and
1-20 (h) as Subsections (g), (h), and (i) to read as follows:

1-21 (c) An entity described by Subsection (b) may serve or
1-22 connect land with water, sewer, electricity, gas, or other utility
1-23 service regardless of whether the entity is presented with or
1-24 otherwise holds a certificate applicable to the land issued under
1-25 Section 212.0115 if:

1-26 (1) the land is covered by a development plat approved
1-27 under Subchapter B or under an ordinance or rule relating to the
1-28 development plat;

1-29 (2) the land was first served or connected with
1-30 service by an entity described by Subsection (b)(1), (b)(2), or
1-31 (b)(3) before September 1, 1987;

1-32 (3) the land was first served or connected with
1-33 service by an entity described by Subsection (b)(4), (b)(5), or
1-34 (b)(6) before September 1, 1989; [or]

1-35 (4) the municipal authority responsible for approving
1-36 plats issues a certificate stating that:

1-37 (A) the land, before September 1, 1995, was sold
1-38 or conveyed to the person requesting service by any means of
1-39 conveyance, including a contract for deed or executory contract;

1-40 (B) the land is located in a subdivision in
1-41 which the entity has previously provided service;

1-42 (C) the land is located outside the limits of
1-43 the municipality;

1-44 (D) the land is located in an "affected county"
1-45 as that term is defined by Section 232.021; and

1-46 (E) construction of a residence on the land,
1-47 evidenced by at least the existence of a completed foundation, was
1-48 begun on or before May 1, 1997; or

1-49 (5) the municipal authority responsible for approving
1-50 plats issues a certificate stating that the land was not subdivided
1-51 after September 1, 1995, and:

1-52 (A) water service is available within 500 feet
1-53 of the land; or

1-54 (B) the water provider has determined that the
1-55 extension of water service to the land is feasible.

1-56 (d) An entity described by Subsection (b) may provide
1-57 utility service to land described by Subsection (c)(4) or (c)(5)
1-58 only if the person requesting service:

1-59 (1) is not the land's subdivider or the subdivider's
1-60 agent; and

1-61 (2) provides to the entity a certificate described by
1-62 Subsection (c)(4) or (c)(5).

1-63 (f) A person requesting service may obtain a certificate

under Subsection (c)(5) only if the person provides to the municipal authority responsible for approving plats an affidavit by the person that the property was not sold or conveyed to that person from a subdivider or subdivider's agent after September 1, 1995.

(g) [†f†] On request, the municipal authority responsible for approving plats shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the municipal authority relied in determining the legality of providing service.

(h) [†g†] This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) [†h†] In this section:

(1) "Foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(2) "Subdivider" has the meaning assigned by Section 232.021.

SECTION 2. Section 232.029, Local Government Code, is amended by amending Subsections (c), (d), and (e), adding a new Subsection (f), and relettering existing Subsections (f)-(i) as Subsections (g)-(j) to read as follows:

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) [~~before July 1, 1995~~] the subdivided land:

(A) was sold or conveyed before September 1, 1995, to the person requesting service by any means of conveyance, including a contract for deed or executory contract;

(B) [~~2~~---the---land] is located in a subdivision in which the utility has previously provided service; and

(C) was improved with the [~~3~~] construction of a residence on the land, evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 1997; or

(2) the land was not subdivided after September 1, 1995, and:

(A) water service is available within 500 feet of the land; or

(B) the water provider has determined that the extension of water service to the land is feasible.

(d) A utility may provide utility service to subdivided land described by Subsection (c) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (c)(1) or (c)(2) [†e†].

(e) A person requesting service may obtain a certificate under Subsection (c)(1) [†e†] only if the person provides to the commissioners court either:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 1995 [~~July 1, 1995~~], and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997; or

(2) a notarized affidavit by the person requesting service that states that the property was sold or conveyed to that person before September 1, 1995 [~~July 1, 1995~~], and that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1,

3-1 1997.

3-2 (f) A person requesting service may obtain a certificate
3-3 under Subsection (c)(2) only if the person provides to the
3-4 commissioners court an affidavit by the person that the property
3-5 was not sold or conveyed to that person from a subdivider or
3-6 subdivider's agent after September 1, 1995.

3-7 (g) ~~[(f)]~~ On request, the commissioners court shall provide
3-8 to the attorney general and any appropriate local, county, or state
3-9 law enforcement official a copy of any document on which the
3-10 commissioners court relied in determining the legality of providing
3-11 service.

3-12 (h) ~~[(g)]~~ This section may not be construed to abrogate any
3-13 civil or criminal proceeding or prosecution or to waive any penalty
3-14 against a subdivider for a violation of a state or local law,
3-15 regardless of the date on which the violation occurred.

3-16 (i) ~~[(h)]~~ The prohibition established by this section shall
3-17 not prohibit an electric or gas utility from providing electric or
3-18 gas utility connection or service to a lot being sold, conveyed, or
3-19 purchased through a contract for deed or executory contract or
3-20 other device by a subdivider prior to September 1, 1995 ~~July 1,~~
3-21 ~~1995~~, which is located within a subdivision where the utility has
3-22 previously established service and was subdivided by a plat
3-23 approved prior to September 1, 1989.

3-24 (j) ~~[(i)]~~ In this section, "foundation" means the lowest
3-25 division of a residence, usually consisting of a masonry slab or a
3-26 pier and beam structure, that is partly or wholly below the surface
3-27 of the ground and on which the residential structure rests.

3-28 SECTION 3. The importance of this legislation and the
3-29 crowded condition of the calendars in both houses create an
3-30 emergency and an imperative public necessity that the
3-31 constitutional rule requiring bills to be read on three several
3-32 days in each house be suspended, and this rule is hereby suspended,
3-33 and that this Act take effect and be in force from and after its
3-34 passage, and it is so enacted.

3-35 * * * * *

FAVORABLY AS AMENDED
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 3234
By Zaffirini
(Author/Senate Sponsor)
5/7/99
(date)

Sir:

We, your Committee on BORDER AFFAIRS, to which was referred the attached measure,
have on May 6, 1999, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass with 1 amendments, and be printed
☐ do pass with _____ amendments, and be ordered not printed
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Lucio, Chair	<input checked="" type="checkbox"/>			
Senator Sibley, Vice-Chair	<input checked="" type="checkbox"/>			
Senator Bivins			<input checked="" type="checkbox"/>	
Senator Duncan			<input checked="" type="checkbox"/>	
Senator Shapleigh	<input checked="" type="checkbox"/>			
Senator Truan	<input checked="" type="checkbox"/>			
Senator Zaffirini	<input checked="" type="checkbox"/>			
TOTAL VOTES	5	0	2	0

COMMITTEE ACTION

S260 Considered in public hearing

S270 Testimony taken

Stephanie R. Hoover
COMMITTEE CLERK

Eddie Lucio Jr.
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with THREE signed copies of each committee amendment adopted
Retain one copy of this form for Committee files

WITNESS LIST

HB 3234
SENATE COMMITTEE REPORT
Border Affairs - Special Committee

May 6, 1999 - 8:30A

Registering, but not testifying:

For: Henneberger, John (Border Low Income Housing Coalition), Austin
Johnson, Amy (Border Water Works), Austin
Truan, Carlos (El Paso County), Austin
On: Alcorta, Victor (Secretary of State), Austin
Preister, David (Texas Attorney General Office), Austin
Steinberg, Jonathan (Texas Water Development Board), Austin

BILL ANALYSIS

Senate Research Center

H.B. 3234
By: Najera (Zaffirini)
Border Affairs - Special
5/6/1999
Committee Report (Amended)

DIGEST

Currently, houses in some colonias are constructed so close to an existing road that widening the road to meet platting requirements is impractical. Law designed to prevent the proliferation of colonias prohibits electricity and other utilities from being provided to colonias that are unplatted. H.B. 3234 encourages individuals to build homes on land with water service by allowing certain utilities to be provided to a unplatted colonia which meets certain requirements, including preexisting water service.

PURPOSE

As proposed, H.B. 3234 allows certain utilities to be provided to an unplatted colonia which meets certain requirements, including preexisting water service.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 212.012, Local Government Code, by amending Subsections (c) and (d) and adding Subsection (f), to authorize an entity described by Subsection (b) to take certain actions, if the municipal authority responsible for approving plats issues a certificate relating to subdivisions and water. Authorizes a service requestor to obtain a certificate by providing a certain affidavit regarding property ownership. Makes conforming changes.

SECTION 2. Amends Section 232.029, Local Government Code, by amending Subsections (c)-(e) and adding Subsection (f), to authorize certain actions if subdivided land was sold or conveyed before September 1, 1995, rather than July 1, 1995, if the land was improved by certain actions that began before May 1, 1997, or if the land was not subdivided with certain water service provisions after September 1, 1995. Changes the dates by which certain property transfer actions can be documented from July 1, 1995, to September 1, 1995. Makes conforming changes.

SECTION 3. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 212.012(c)(5)(A), Local Government Code, to increase the distance water service is available from the land from 500 to 750 feet.

SECTION 2.

Amends 232.029(c)(2)(A), Local Government Code, to make a conforming change.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

May 6, 1999

TO: Honorable Eddie Lucio, Chair, Senate Committee on Border Affairs

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB 3234** by Najera (relating to the connection of utilities in certain subdivisions in economically distressed areas), **Committee Report 2nd House, as amended**

No significant fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board

LBB Staff: JK, DE, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

May 5, 1999

TO: Honorable Eddie Lucio, Chair, Senate Committee on Border Affairs

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB 3234** by Najera (Relating to the connection of utilities in certain subdivisions in economically distressed areas.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board

LBB Staff: JK, DE, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

April 13, 1999

TO: Honorable Gary Walker, Chair, House Committee on Land & Resource Management

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB 3234** by Najera (relating to the connection of utilities in certain subdivisions in economically distressed areas), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.
--

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board

LBB Staff: JK, DE, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

March 23, 1999

TO: Honorable Gary Walker, Chair, House Committee on Land & Resource Management

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB3234** by Najera (Relating to the provision of utility service in economically distressed areas.), **As Introduced**

No significant fiscal implication to the State is anticipated.
--

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JK, DE, TL

REQUEST FOR LOCAL & UNCONTESTED CALENDAR - PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that HB 3234, by: Zaffrini,
(Bill No.) (Author/Sponsor)
was heard by the Border Affairs Committee on May 6, 1999,
and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Stephanie R. Hoover
(Clerk of the reporting committee)

IMPORTANT: THE YELLOW COPY OF THIS FORM AND (1) COPY OF YOUR BILL OR RESOLUTION
(COMMITTEE PRINTED VERSION) MUST BE DELIVERED TO THE ADMINISTRATION OFFICE,
E1.714. DEADLINES FOR SUBMITTING BILLS WILL BE ANNOUNCED ON A REGULAR BASIS.

Committee Clerks: Original to Calendar Clerk. Pink copy for committee files. Green and yellow copies to bill author/sponsor.
Author/Sponsor: Green copy for office files. Submit yellow copy to Administration with your bill.

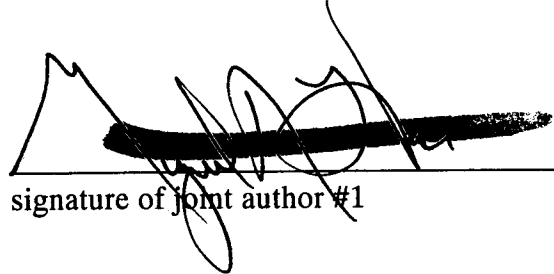
for chief clerk use only

Bill or Resolution Number: HB 3234

JOINT AUTHOR AUTHORIZATION

As primary author of HB 3234 I hereby authorize the following joint author(s):
(bill or resolution #)

MIGUEL D. WESS
printed name of joint author #1


signature of joint author #1

PAT HAGGERTY
printed name of joint author #2

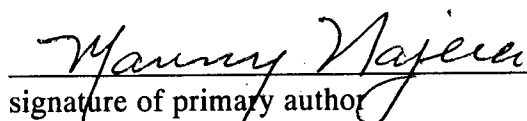
signature of joint author #2

HENRY CUELLAR
printed name of joint author #3

signature of joint author #3

JUAN HINOJOSA
printed name of joint author #4

signature of joint author #4


signature of primary author

March 11, 1999
date

A BILL TO BE ENTITLED
AN ACT

By

Manny Najera

Relating to the provision of utility service in economically distressed areas.

MAR 11 1999

Filed with the Chief Clerk

MAR 16 1999

Land and Resource Management

Read first time and referred to Committee on

APR 12 1999

Reported ___ favorably ~~(as amended)~~
(as substituted)

APR 19 1999

Sent to Committee on (Calendars)

~~(Unanimous Consent Calendars)~~

APR 27 1999

Read second time (comm. subst.) ~~(amended)~~; passed to third reading ~~(failed)~~ by a (non-record vote)
(record vote of ___ yeas, ___ nays, ___ present, not voting)Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of ___ yeas, ___ nays, ___ present, not voting

APR 28 1999

Read third time ~~(amended)~~; finally passed ~~(failed to pass)~~ by a ~~(non-record vote)~~
(record vote of 140 yeas, 0 nays, 1 present, not voting)

APR 29 1999

Engrossed

APR 29 1999

Sent to Senate

Sharon Carter

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

APR 29 1999

Received from the House

APR 30 1999

Read and referred to Committee on

SPECIAL COMMITTEE ON
BORDER AFFAIRS

MAY 07 1999

Reported favorably as amended

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(___ yeas, ___ nays)Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(___ yeas, ___ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of ___ yeas, ___ nays

Read third time, _____, and passed by (a viva voce vote)
(___ yeas, ___ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)